

**ASSEMBLY BILL**

**No. 2491**

---

**Introduced by Assembly Member Gaines**

February 21, 2008

---

An act to amend Section 17053.47 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2491, as introduced, Gaines. Targeted economic development area: tax credit.

The Personal Income Tax Law authorizes various credits against the tax imposed by that law, including a hiring credit for qualified taxpayers who hire qualified employees, as defined, within manufacturing enhancement areas, subject to specified criteria.

This bill would make a technical, nonsubstantive change to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17053.47 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17053.47. (a) For each taxable year beginning on or after
- 4 January 1, 1998, there shall be allowed a credit against the “net
- 5 tax” ~~(as defined in Section 17039)~~ tax,” as defined in Section
- 6 17039, to a qualified taxpayer for hiring a qualified disadvantaged
- 7 individual during the taxable year for employment in the

1 manufacturing enhancement area. The credit shall be equal to the  
2 sum of each of the following:

3 (1) Fifty percent of the qualified wages in the first year of  
4 employment.

5 (2) Forty percent of the qualified wages in the second year of  
6 employment.

7 (3) Thirty percent of the qualified wages in the third year of  
8 employment.

9 (4) Twenty percent of the qualified wages in the fourth year of  
10 employment.

11 (5) Ten percent of the qualified wages in the fifth year of  
12 employment.

13 (b) For purposes of this section:

14 (1) "Qualified wages" means:

15 (A) That portion of wages paid or incurred by the qualified  
16 taxpayer during the taxable year to qualified disadvantaged  
17 individuals that does not exceed 150 percent of the minimum wage.

18 (B) The total amount of qualified wages which may be taken  
19 into account for purposes of claiming the credit allowed under this  
20 section shall not exceed two million dollars (\$2,000,000) per  
21 taxable year.

22 (C) Wages received during the 60-month period beginning with  
23 the first day the qualified disadvantaged individual commences  
24 employment with the qualified taxpayer. Reemployment in  
25 connection with any increase, including a regularly occurring  
26 seasonal increase, in the trade or business operations of the taxpayer  
27 does not constitute commencement of employment for purposes  
28 of this section.

29 (D) Qualified wages do not include any wages paid or incurred  
30 by the qualified taxpayer on or after the manufacturing  
31 enhancement area expiration date. However, wages paid or incurred  
32 with respect to qualified employees who are employed by the  
33 qualified taxpayer within the manufacturing enhancement area  
34 within the 60-month period prior to the manufacturing enhancement  
35 area expiration date shall continue to qualify for the credit under  
36 this section after the manufacturing enhancement area expiration  
37 date, in accordance with all provisions of this section applied as  
38 if the manufacturing enhancement area designation were still in  
39 existence and binding.

1 (2) “Minimum wage” means the wage established by the  
2 Industrial Welfare Commission as provided for in Chapter 1  
3 (commencing with Section 1171) of Part 4 of Division 2 of the  
4 Labor Code.

5 (3) “Manufacturing enhancement area” means an area designated  
6 pursuant to Section 7073.8 of the Government Code according to  
7 the procedures of Chapter 12.8 (commencing with Section 7070)  
8 of Division 7 of Title 1 of the Government Code.

9 (4) “Manufacturing enhancement area expiration date” means  
10 the date the manufacturing enhancement area designation expires,  
11 is no longer binding, or becomes inoperative.

12 (5) “Qualified disadvantaged individual” means an individual  
13 who satisfies all of the following requirements:

14 (A) (i) At least 90 percent of whose services for the qualified  
15 taxpayer during the taxable year are directly related to the conduct  
16 of the qualified taxpayer’s trade or business located in a  
17 manufacturing enhancement area.

18 (ii) Who performs at least 50 percent of his or her services for  
19 the qualified taxpayer during the taxable year in the manufacturing  
20 enhancement area.

21 (B) Who is hired by the qualified taxpayer after the designation  
22 of the area as a manufacturing enhancement area in which the  
23 individual’s services were primarily performed.

24 (C) Who is any of the following immediately preceding the  
25 individual’s commencement of employment with the qualified  
26 taxpayer:

27 (i) An individual who has been determined eligible for services  
28 under the federal Job Training Partnership Act (29 U.S.C. Sec.  
29 1501 et seq.), or its successor.

30 (ii) Any voluntary or mandatory registrant under the Greater  
31 Avenues for Independence Act of 1985, or its successor, as  
32 provided pursuant to Article 3.2 (commencing with Section 11320)  
33 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions  
34 Code.

35 (iii) Any individual who has been certified eligible by the  
36 Employment Development Department under the federal Targeted  
37 Jobs Tax Credit Program, or its successor, whether or not this  
38 program is in effect.

39 (6) “Qualified taxpayer” means any taxpayer engaged in a trade  
40 or business within a manufacturing enhancement area designated

1 pursuant to Section 7073.8 of the Government Code and who meets  
2 all of the following requirements:

3 (A) Is engaged in those lines of business described in Codes  
4 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,  
5 inclusive, of the Standard Industrial Classification (SIC) Manual  
6 published by the United States Office of Management and Budget,  
7 1987 edition.

8 (B) At least 50 percent of the qualified taxpayer's workforce  
9 hired after the designation of the manufacturing enhancement area  
10 is composed of individuals who, at the time of hire, are residents  
11 of the county in which the manufacturing enhancement area is  
12 located.

13 (C) Of this percentage of local hires, at least 30 percent shall  
14 be qualified disadvantaged individuals.

15 (7) "Seasonal employment" means employment by a qualified  
16 taxpayer that has regular and predictable substantial reductions in  
17 trade or business operations.

18 (c) (1) For purposes of this section, all of the following apply:

19 (A) All employees of trades or businesses that are under  
20 common control shall be treated as employed by a single qualified  
21 taxpayer.

22 (B) The credit (if any) allowable by this section with respect to  
23 each trade or business shall be determined by reference to its  
24 proportionate share of the expense of the qualified wages giving  
25 rise to the credit and shall be allocated in that manner.

26 (C) Principles that apply in the case of controlled groups of  
27 corporations, as specified in subdivision (d) of Section 23622.7,  
28 shall apply with respect to determining employment.

29 (2) If a qualified taxpayer acquires the major portion of a trade  
30 or business of another employer (hereinafter in this paragraph  
31 referred to as the "predecessor") or the major portion of a separate  
32 unit of a trade or business of a predecessor, then, for purposes of  
33 applying this section (other than subdivision (d)) for any calendar  
34 year ending after that acquisition, the employment relationship  
35 between a qualified disadvantaged individual and a qualified  
36 taxpayer shall not be treated as terminated if the qualified  
37 disadvantaged individual continues to be employed in that trade  
38 or business.

39 (d) (1) (A) If the employment, other than seasonal employment,  
40 of any qualified disadvantaged individual, with respect to whom

1 qualified wages are taken into account under subdivision (b) is  
2 terminated by the qualified taxpayer at any time during the first  
3 270 days of that employment (whether or not consecutive) or before  
4 the close of the 270th calendar day after the day in which that  
5 qualified disadvantaged individual completes 90 days of  
6 employment with the qualified taxpayer, the tax imposed by this  
7 part for the taxable year in which that employment is terminated  
8 shall be increased by an amount equal to the credit allowed under  
9 subdivision (a) for that taxable year and all prior taxable years  
10 attributable to qualified wages paid or incurred with respect to that  
11 qualified disadvantaged individual.

12 (B) If the seasonal employment of any qualified disadvantaged  
13 individual, with respect to whom qualified wages are taken into  
14 account under subdivision (a) is not continued by the qualified  
15 taxpayer for a period of 270 days of employment during the  
16 60-month period beginning with the day the qualified  
17 disadvantaged individual commences seasonal employment with  
18 the qualified taxpayer, the tax imposed by this part, for the taxable  
19 year that includes the 60th month following the month in which  
20 the qualified disadvantaged individual commences seasonal  
21 employment with the qualified taxpayer, shall be increased by an  
22 amount equal to the credit allowed under subdivision (a) for that  
23 taxable year and all prior taxable years attributable to qualified  
24 wages paid or incurred with respect to that qualified disadvantaged  
25 individual.

26 (2) (A) Subparagraph (A) of paragraph (1) does not apply to  
27 any of the following:

28 (i) A termination of employment of a qualified disadvantaged  
29 individual who voluntarily leaves the employment of the qualified  
30 taxpayer.

31 (ii) A termination of employment of a qualified disadvantaged  
32 individual who, before the close of the period referred to in  
33 subparagraph (A) of paragraph (1), becomes disabled to perform  
34 the services of that employment, unless that disability is removed  
35 before the close of that period and the taxpayer fails to offer  
36 reemployment to that individual.

37 (iii) A termination of employment of a qualified disadvantaged  
38 individual, if it is determined that the termination was due to the  
39 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,  
40 of Title 22 of the California Code of Regulations) of that individual.

1 (iv) A termination of employment of a qualified disadvantaged  
2 individual due to a substantial reduction in the trade or business  
3 operations of the qualified taxpayer.

4 (v) A termination of employment of a qualified disadvantaged  
5 individual, if that individual is replaced by other qualified  
6 disadvantaged individuals so as to create a net increase in both the  
7 number of employees and the hours of employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
9 of the following:

10 (i) A failure to continue the seasonal employment of a qualified  
11 disadvantaged individual who voluntarily fails to return to the  
12 seasonal employment of the qualified taxpayer.

13 (ii) A failure to continue the seasonal employment of a qualified  
14 disadvantaged individual who, before the close of the period  
15 referred to in subparagraph (B) of paragraph (1), becomes disabled  
16 and unable to perform the services of that seasonal employment,  
17 unless that disability is removed before the close of that period  
18 and the qualified taxpayer fails to offer seasonal employment to  
19 that qualified disadvantaged individual.

20 (iii) A failure to continue the seasonal employment of a qualified  
21 disadvantaged individual, if it is determined that the failure to  
22 continue the seasonal employment was due to the misconduct (as  
23 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
24 the California Code of Regulations) of that qualified disadvantaged  
25 individual.

26 (iv) A failure to continue seasonal employment of a qualified  
27 disadvantaged individual due to a substantial reduction in the  
28 regular seasonal trade or business operations of the qualified  
29 taxpayer.

30 (v) A failure to continue the seasonal employment of a qualified  
31 disadvantaged individual, if that qualified disadvantaged individual  
32 is replaced by other qualified disadvantaged individuals so as to  
33 create a net increase in both the number of seasonal employees  
34 and the hours of seasonal employment.

35 (C) For purposes of paragraph (1), the employment relationship  
36 between the qualified taxpayer and a qualified disadvantaged  
37 individual shall not be treated as terminated by reason of a mere  
38 change in the form of conducting the trade or business of the  
39 qualified taxpayer, if the qualified disadvantaged individual

1 continues to be employed in that trade or business and the qualified  
2 taxpayer retains a substantial interest in that trade or business.

3 (3) Any increase in tax under paragraph (1) shall not be treated  
4 as tax imposed by this part for purposes of determining the amount  
5 of any credit allowable under this part.

6 (e) In the case of an estate or trust, both of the following apply:

7 (1) The qualified wages for any taxable year shall be apportioned  
8 between the estate or trust and the beneficiaries on the basis of the  
9 income of the estate or trust allocable to each.

10 (2) Any beneficiary to whom any qualified wages have been  
11 apportioned under paragraph (1) shall be treated (for purposes of  
12 this part) as the employer with respect to those wages.

13 (f) The credit shall be reduced by the credit allowed under  
14 Section 17053.7. The credit shall also be reduced by the federal  
15 credit allowed under Section 51 of the Internal Revenue Code.

16 In addition, any deduction otherwise allowed under this part for  
17 the wages or salaries paid or incurred by the qualified taxpayer  
18 upon which the credit is based shall be reduced by the amount of  
19 the credit, prior to any reduction required by subdivision (g) or  
20 (h).

21 (g) In the case where the credit otherwise allowed under this  
22 section exceeds the “net tax” for the taxable year, that portion of  
23 the credit that exceeds the “net tax” may be carried over and added  
24 to the credit, if any, in succeeding years, until the credit is  
25 exhausted. The credit shall be applied first to the earliest taxable  
26 years possible.

27 (h) (1) The amount of credit otherwise allowed under this  
28 section, including prior year credit carryovers, that may reduce  
29 the “net tax” for the taxable year shall not exceed the amount of  
30 tax that would be imposed on the qualified taxpayer’s business  
31 income attributed to a manufacturing enhancement area determined  
32 as if that attributed income represented all of the net income of the  
33 qualified taxpayer subject to tax under this part.

34 (2) Attributable income shall be that portion of the taxpayer’s  
35 California source business income that is apportioned to the  
36 manufacturing enhancement area. For that purpose, the taxpayer’s  
37 business income that is attributable to sources in this state first  
38 shall be determined in accordance with Chapter 17 (commencing  
39 with Section 25101) of Part 11. That business income shall be  
40 further apportioned to the manufacturing enhancement area in

1 accordance with Article 2 (commencing with Section 25120) of  
2 Chapter 17 of Part 11, modified for purposes of this section in  
3 accordance with paragraph (3).

4 (3) Income shall be apportioned to a manufacturing enhancement  
5 area by multiplying the total California business income of the  
6 taxpayer by a fraction, the numerator of which is the property  
7 factor plus the payroll factor, and the denominator of which is two.  
8 For purposes of this paragraph:

9 (A) The property factor is a fraction, the numerator of which is  
10 the average value of the taxpayer's real and tangible personal  
11 property owned or rented and used in the manufacturing  
12 enhancement area during the taxable year, and the denominator  
13 of which is the average value of all the taxpayer's real and tangible  
14 personal property owned or rented and used in this state during  
15 the taxable year.

16 (B) The payroll factor is a fraction, the numerator of which is  
17 the total amount paid by the taxpayer in the manufacturing  
18 enhancement area during the taxable year for compensation, and  
19 the denominator of which is the total compensation paid by the  
20 taxpayer in this state during the taxable year.

21 (4) The portion of any credit remaining, if any, after application  
22 of this subdivision, shall be carried over to succeeding taxable  
23 years, as if it were an amount exceeding the "net tax" for the  
24 taxable year, as provided in subdivision (g).

25 (i) If the taxpayer is allowed a credit pursuant to this section for  
26 qualified wages paid or incurred, only one credit shall be allowed  
27 to the taxpayer under this part with respect to any wage consisting  
28 in whole or in part of those qualified wages.

29 (j) The qualified taxpayer shall do both of the following:

30 (1) Obtain from the Employment Development Department, as  
31 permitted by federal law, the local county or city Job Training  
32 Partnership Act administrative entity, the local county GAIN office  
33 or social services agency, or the local government administering  
34 the manufacturing enhancement area, a certification that provides  
35 that a qualified disadvantaged individual meets the eligibility  
36 requirements specified in paragraph (5) of subdivision (b). The  
37 Employment Development Department may provide preliminary  
38 screening and referral to a certifying agency. The Department of  
39 Housing and Community Development shall develop regulations  
40 governing the issuance of certificates pursuant to subdivision (d)



- 1 of Section 7086 of the Government Code and shall develop forms
- 2 for this purpose.
- 3 (2) Retain a copy of the certification and provide it upon request
- 4 to the Franchise Tax Board.

O